

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7317

BILL NUMBER: SB 408

NOTE PREPARED: Jan 8, 2015

BILL AMENDED:

SUBJECT: Real Estate Brokers and Broker Companies.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: *Definition of 'Broker Company'*- The bill defines "broker company" as a partnership, limited liability company, corporation, or individual acting as a sole proprietorship that is licensed as a broker and, for consideration, undertakes or offers to undertake certain activities with respect to real estate.

Obtaining Broker License- The bill provides that an individual, to obtain a broker license, must associate with a broker company (instead of with a managing broker).

Managing Brokers- The bill provides that a partnership, a limited liability company, or a corporation, to obtain a broker license, must include a licensed broker who qualifies as a managing broker. The bill defines "managing broker" as an individual who is a broker and whom the Indiana Real Estate Commission (IREC) holds responsible for the actions of the licensees affiliated with the broker company. The bill provides that an individual, to become a managing broker, must have held an active broker's license for at least two years.

Brokers Associated with Single Managing Broker- The bill provides that a broker may act only under the auspices of a particular managing broker, may be associated with only one managing broker, must maintain evidence of licensure in the managing broker's office, may advertise only in the name of the managing broker, and may not maintain a real estate office apart from the office provided by the managing broker.

Grandfather Provision for Managing Brokers- The bill provides that an individual who was the designated individual broker of a partnership broker, corporate broker, or limited liability company broker on June 30, 2014, became a managing broker on July 1, 2014.

Broker Courses- The bill requires a person conducting a broker course to have a permit issued by the IREC.

Definition of 'In-house Agency Relationship' - The bill defines "in-house agency relationship" as an agency relationship involving two or more clients who are represented by different licensees within the same broker company. The bill provides that, in an in-house agency relationship, an individual licensee affiliated with a broker company represents only the client with whom the licensee is working.

Continuing Education- The bill requires a broker to complete at least eight hours of approved continuing education per year (instead of 12 hours) but requires a broker to complete at least 36 hours of approved continuing education per three-year cycle.

The bill makes corresponding changes in current law.

Effective Date: July 1, 2014 (retroactive); July 1, 2015.

Explanation of State Expenditures: Summary- There could be additional administrative time necessary for the Professional Licensing Agency to implement the changes within the bill. Under current law, license holders are responsible for remaining up-to-date with changes to their professions. The PLA also emails affected license holders to notify them of statutory changes and provide a web link to the changed statutes. The PLA may also update their website pertaining to real estate brokers of the changes within the bill. Additionally, professional associations usually notify their members of recent statutory changes.

Brokers Associated with Single Managing Broker- Brokers that violate the provision could be subject to disciplinary action under IC 25-1-11-12. Discipline can range from a letter of reprimand to revocation of a license. Presumably, if any complaints come before the IREC as a result of this provision, the IREC could use funds within the Real Estate Investigative Fund to conduct investigations.

Explanation of State Revenues: Summary- It is indeterminable whether the bill's proposed changes, would impact the number of broker license applicants and application fees collected in future state fiscal years.

Brokers Associated with Single Managing Broker- A professional board may assess a civil penalty not to exceed \$1,000 per violation for a violation of statute relating to the profession. Civil penalties assessed for professional licensing violations are placed in the state General Fund.

Continuing Education- This provision would not change the amount of course hours a managing broker would have to complete within a three-year period. The minimum number of hours per year would be reduced by four hours, as long as the managing broker completes 36 hours within three years. This provision would not likely affect the number of persons applying for a renewal of a managing broker license.

Grandfather Provision for Managing Brokers- This provision would grandfather existing principal brokers and designated individual brokers in a real estate partnership, corporation, or LLC as of June 30, 2014, as a managing broker.

Additional Information- The following table lists FY 2014 licensing statistics for real estate broker licenses.

License Status Counts for Principal Brokers and Broker Companies FY 2014 (as of 6/30/2014)	
<u>License Type</u>	<u>Count</u>
Active	Broker Company - 1,919 Principal Broker - 24,196
Inactive	Principal Broker - 3,191
Initial Issue	Broker Company - 274 Principal Broker - 8,785
Non-Renewed	Broker Company - 800 Principal Broker - 2,854
Renewals	Broker Company - 1,705 Principal Broker - 20,332

Total revenue from all Real Estate licenses was \$1.3 M in FY 2014.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Professional Licensing Agency, Real Estate Commission.

Local Agencies Affected:

Information Sources: Professional Licensing Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations FY 2014*.

Fiscal Analyst: Chris Baker, 317-232-9851.